

APPENDIX 2

The Principles of Valuation:

- Freshwater Parish Council (FPC) owns the land between the adopted highway (Queens Road) and Windmill Lane (hatched green on the attached plan).
- The council has an existing right of way to drive directly from Queens Road (the adopted highway) to Windmill Lane.
- The council's existing right allows users to pass over the FPC land, but not to undertake other actions such as highway works.
- The site is currently subject to a planning application for 50 new houses. The council's highways department has confirmed that the council as landowner could redevelop this site to 41 houses without being able to require highway improvements as part of any planning permission, because 41 houses would generate an equivalent number of vehicular movements as associated with the historic use of the site as a school, therefore the council's Highways department could not require road improvements for this similar level of use. This means that the council could obtain consent for, and build out, 41 units, and sell the site with the benefit of its existing right across FPC's land, with no need for any further FPC consent.
- However, to maximise land value, the council has passed a Resolution to Grant for 50 units, which will require highway improvement works. The council will therefore need FPC's consent to undertake these works.
- The value of FPC's ransom situation at West Wight Middle School therefore relates to the additional nine dwellings only.
- FPC is under no obligation to agree to IWC's request, and could simply refuse. If so, IWC would simply proceed with a planning application for 41 houses, and in all likelihood lose c. £117,000 of land value.

The Valuation:

- Payments for ransom land situations are governed by case law, namely *Stokes v. Cambridge*. This case established that a reasonable payment to a third party landowner whose agreement enables the redevelopment of a site, is between 10 per cent and 50 per cent of the uplift in land value as a result of the access depending on the relative strengths of each party, less reasonable costs to obtain the planning consent. Where a second access of some sort exists, 33 per cent of the uplift in land value is deemed reasonable. Where no second access exists, the payment can be higher. There is no second access available at West Wight Middle School.
- Two independent valuations of the site have been undertaken. One reported uncertainty due to lack of information on Section 106 planning costs but recommended marketing at between £350,000 and £800,000. The second one reported a value of £777,000.
- The ransom payment is calculated on the uplift in site value only as a result of planning permission. The current open market value of the site, without planning permission for an alternative use, could reasonably be assumed to be in the region of £100,000. Therefore for the purposes of this exercise, we have assumed the uplift in land value as a result of a planning permission for 50 houses would be £650,000.

- With 50 dwellings proposed, a site value of £650,000 gives an individual plot value of £13,000. Nine plots (which FPC has a ransom right over) generate a land value of £117,000.
- Bearing in mind Stokes vs. Cambridge case law, 33 per cent of the uplift can be deemed a reasonable payment. 33 per cent of £117,000 is £38,610.
- In addition, FPC also has the right to 33 per cent of any units achieved in the future in excess of 50 units, therefore it has requested either an overage clause to reflect this, or a small additional payment now. There is a reasonable chance another purchaser could achieve a small number of extra plots on this site, so it is likely that an overage payment will be due. FPC offered IWC either an additional one off payment now to reflect the possibility of this future value, or an overage clause in the transfer. Including overage provisions in a contract is complex, and enforcing them is expensive and time consuming. Accordingly, the parties agreed to waive an overage clause in the agreement for the additional payment now of £7,000 payment. At a plot value of £13,000, a 33 per cent payment to FPC for each additional plot would equate to an additional overage payment by IWC of £4,290 per plot. Therefore the additional £7,000 requested equates to an additional 1.63 plots being achieved. With the reasonable likelihood of an overage payment being made at some point in the future for a limited number of additional plots, this small additional payment is considered to be good value for money for the council.
- Accordingly, IWC and FPC agreed to settle at £45,000 (a 33 per cent payment of £38,000 plus £7,000 in lieu of overage), plus FPC's reasonable surveyors and legal fees. The payment of this sum allows the council to realise an additional c. £117,000 of land value for the extra nine plots, creating a net increase in land value to IWC of £72,000.